

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>9/12/2022</u>

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
GENEVIEVE ZIETEK,

Plaintiff,

-v-

PINNACLE NURSING & REHAB CENTER,

Defendant.
-----X

ORDER

21-CV-5488 (AT) (JLC)

JAMES L. COTT, United States Magistrate Judge.

In response to various letters filed on the Court’s docket by Genevieve Zietek and Pinnacle Nursing & Rehab Center (“Pinnacle”), the Court hereby rules as follows:

By letter dated August 8, 2022, Ms. Zietek requested a change of venue from the federal court in Manhattan to the federal court in White Plains. Dkt. No. 57. The Court denies Ms. Zietek’s request for a change of venue. Pinnacle is located in the Bronx, and Ms. Zietek herself is located in the Bronx. The Bronx is within the venue of the Foley Square (Manhattan) Courthouse of the Southern District of New York. Civil cases are assigned to the White Plains Courthouse under the Court’s rules only when the claim giving rise to the lawsuit arises outside of the Southern District and at least some of the parties reside in the Counties of Dutchess, Orange, Putnam, Rockland, Sullivan, or Westchester (the “Northern Counties”), or at least half of the parties reside in the Northern Counties. That is not the case here.

By letter dated August 9, 2022, Pinnacle requested that the Court restore

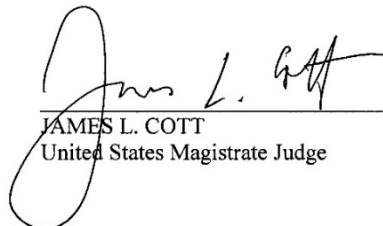
this case to active status and permit Pinnacle to renew its motion to dismiss. Dkt. No. 59. The Court denies Pinnacle's request without prejudice until after the issue of Ms. Zietek's competency has been resolved.

Finally, in order to discuss the need for a potential competency hearing as well as how best to move this case forward, a conference is scheduled for **October 7, 2022 at 2:30 p.m.** The conference will be held in person, in Courtroom 21D, United States Courthouse, 500 Pearl Street, New York, New York. The Court directs counsel for Pinnacle to provide a copy of this order to Ms. Zietek's representative at the Bronx Community Guardianship Network, Inc., as well as to her assigned counsel in the state court proceeding, who should attend the conference.

The Clerk is respectfully directed to send a copy of this order to Ms. Zietek, and to the Bronx Community Guardianship Network, Inc. at 3333 Henry Hudson Parkway, W #1D, Bronx, New York, 10463.¹ Finally, Ms. Zietek should attend the October 7 conference in person, if she is able to do so.²

SO ORDERED.

Dated: September 12, 2022
New York, New York



JAMES L. COTT
United States Magistrate Judge

¹ The chambers of the undersigned will also email a copy of this order to Philip Conran at Bronx Community Guardianship Network.

² While counsel for Pinnacle says in his August 9 letter that "[a]s this Court is aware," the state court judge executed an order on March 1, 2022 that extended the guardianship of Ms. Zietek by the Bronx Community Guardianship Network, Inc., counsel's August 9th letter was the first time the Court had learned of the extension of the guardianship.